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Via ECF

December 20, 2017

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *State of New York, et al. v. Donald Trump, et al.*, 1:17-cv-05228-NGG-JO;
AND,
Batalla Vidal, et al. v. Nielsen, et al., No. 1:16-cv-04756-NGG-JO

- (1) **Notice of Appearance by William J. Schwartz as Counsel for Proposed *Amici*, Partnership for Educational Justice, DelawareCAN: The Delaware Campaign for Achievement Now, HawaiiKidsCAN, NewMexicoKidsCAN, and Virginia Excels**
- (2) **Consent Motion for Leave to File Brief of Partnership for Educational Justice, DelawareCAN: The Delaware Campaign for Achievement Now, HawaiiKidsCAN, NewMexicoKidsCAN, and Virginia Excels, as *Amici Curiae***

Dear Judge Garaufis:

We represent Partnership for Educational Justice, DelawareCAN: The Delaware Campaign for Achievement Now, HawaiiKidsCAN, NewMexicoKidsCAN, and Virginia Excels (“proposed *amici*”). I respectfully submit this letter to enter my appearance on behalf of proposed *amici* and to seek the Court’s leave to file an *amicus* brief in support of Plaintiffs’ motions for preliminary injunction in the above-captioned parallel cases.¹ All of the parties consent to the motion for leave to file an *amicus* brief.

“A district court has broad discretion to grant or deny an appearance as *amicus curiae* in a given case.” *Andersen v. Leavitt*, 2007 WL 2343672, at *2 (E.D.N.Y. Aug. 13, 2007) (citing *Citizens Against Casino Gambling in Erie County v. Kempthorne*, 471 F.Supp.2d 295, 311 (W.D.N.Y.2007)). Furthermore, “[a]n *amicus* brief should normally be allowed when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for

¹ Proposed *amici* respectfully submit this letter motion under Section II.A of Your Honor’s Individual Rules, which requires communications with chambers to be made via letter. In the alternative, proposed *amici* request a pre-motion conference to authorize leave to file an *amicus* brief, pursuant to Rule III.A of Your Honor’s Individual Rules.



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the parties are able to provide.” *Disability Advocates, Inc., v. David A. Paterson, et al.*, No. 1:03-cv-03209-NGG-MDG, Dkt. 388, at 2 (E.D.N.Y. Nov. 24, 2009) (internal quotations omitted).

Proposed *amici* are uniquely suited to offer the Court an informed perspective on the irreparable educational harms that will be experienced by children in kindergarten through twelfth grade (“K-12”) if the September 5, 2017 Memorandum on Rescission of Deferred Action For Childhood Arrivals (“DACA”) is enforced. Proposed *amici* are each part of the education nonprofit 50CAN: 50-State Campaign for Achievement Now. Proposed *amici* work to improve the quality of K-12 public schools by conducting research, surveying students, teachers, and school administrators, engaging in legal action, fostering grassroots organizing efforts, and advocating for policies and practices at the state and local level. Through this work, proposed *amici* have developed a detailed understanding of the educational benefits of DACA experienced by K-12 students with whom they work, including students who have already received DACA, students who plan to apply for DACA, U.S. born children of DACA-recipient parents, and students of DACA-recipient teachers. Moreover, proposed *amici* are well positioned to articulate the irreparable educational harms that these students will encounter if DACA is rescinded, as well as the reasons an injunction serves the public interest.²

For the foregoing reasons, prospective *amici* respectfully request permission to file an *amicus* brief on or before December 22, 2017, or in the alternative, a pre-motion conference concerning leave to file the brief.

Respectfully Submitted,

A handwritten signature in black ink that reads "William J. Schwartz / leah".

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CC: All Counsel of Record (VIA ECF)

² Our firm is separately filing another letter motion with this Court on behalf of several legal services organizations seeking leave to file an *amicus* brief regarding the distinct issue of how the rescission of DACA will directly harm their clients.